

CC: ORIGINAL
CalTel Inc.
PO Box 827
Conway, SC 29528
Phone 843-397-4284
Fax 843-397-4289

Received & Inspected
JAN 8 - 2009
FCC Mail Room

Doc 02-6

December 30, 2008

Federal Communications Commission
Office of the Secretary
445 12th Street, SW
Room TW-A325
Washington, DC 20554

RE: Appeal & Waiver Request
CalTel Inc. (Filer ID #820292)

Dear Sir or Madam:

I am appealing the decision of USAC in the attached letter dated 12/8/08 and requesting a waiver of the late filing fees in full or in part.

We thought we had filed our 499-A, it was not until we received the invoice for late filing fee dated 7/22/08 (see attached), that we found out that we had not filed our report and immediately filed the report. We have always filed our reports on the due date or within a couple of days. We are aware of the due date this was simply an oversight on our part.

Our problem is the \$400.00 late filing fee. It is our understanding that a late fee of \$100.00 will be applied to each month we are late. We want to know where is the invoice for May 1, 2008 for \$100.00 late filing fee, where is the invoice for June 1, 2008 for the \$200.00 late filing fee, and where is the invoice for July 1, 2008 for the \$300.00 late filing fee? The first invoice we have received from USAC was dated 7/22/08 for \$400.00. Had we received a invoice in May for the late filing fees, we would have checked our records then, submitted our report immediately and paid the \$100.00 late filing fee as we admit that we did not file our report on time but it seems as if USAC waited to send us an invoice when the filing fee was \$400.00. This seems unfair, as we did not intentionally fail to file our report.

We are a small payphone company. The \$400.00 late filing fee is just too much

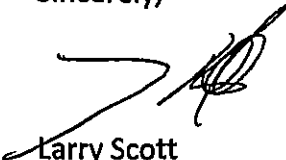
for our small payphone company to pay. The payphone industry is a declining industry due to the cell phone use and most of our payphones barely cover the cost of the phone bills. We have considered closing our payphone business.

We are asking that you waive the \$400.00 late filing fee, as our late filing was not intentional but an oversight on our part. If you are unable to waive the late filing fee, then we are requesting that you adjust the fee to \$100.00 which is what it would have been if we had received an invoice one month after the due date of the report.

If you need any additional information, please call me at 843-397-4284.

Your consideration in this matter would be greatly appreciated.

Sincerely,



Larry Scott

Enclosures

cc: USAC
2000 L Street, N.W.
Suite 200
Washington, DC 20036



Universal Service Administrative Company

Administrator's Decision on Contributor Appeal

By Certified Mail

December 8, 2008

Mr. Larry Scott
President
CalTel, Inc.
P.O. Box 827
Conway, SC 29528

Re: CalTel, Inc. (Filer ID # 820292)
Letter of Appeal dated August 15, 2008

Dear Mr. Scott:

The Universal Service Administrative Company (USAC) has completed its evaluation of the appeal submitted on behalf of CalTel, Inc. (CTI), dated August 15, 2008. The appeal requests that USAC eliminate or reduce the late filing fee related to CTI's 2008 FCC Form 499-A, due April 1, 2008. As discussed in more detail below, USAC hereby denies CTI's appeal.

Decision on Appeal: Denied.

Federal Communications Commission (FCC or Commission) regulations require telecommunications carriers to file an annual FCC Form 499-A. In addition, carriers are also required to file quarterly Form 499-Qs, unless they meet the *de minimis* exemption.¹ USAC relies on projected revenue for the upcoming quarter reported on the Form 499-Q to bill contributors and relies on the annual Form 499-A to reconcile billings for the previous year, as projected on the Form 499-Qs. *See generally*, 47 C.F.R. Part 54.

The Commission's rules state that the Administrator shall assess a monthly remedial sanction if a contributor is more than 30 days delinquent in filing a Form 499 until the date of filing.² In all cases, it is the contributor's obligation to ensure filings are made in a timely manner.

The 2008 Form 499-A had a due date of April 1, 2008. USAC records indicate that CTI failed to file a Form 499-A until July 31, 2008. In addition, USAC records indicate that

¹ See 47 C.F.R. § 54.708.

² *In the Matter of Comprehensive Review of the Universal Service Fund Management, Administration, and Oversight, Report and Order*, WC Docket No. 05-195, et al., FCC 07-150, 22 FCC Rcd. 16372, 16375-16376, ¶ 14 (2007) (*Comprehensive Review Order*), citing 47 C.F.R. § 54.713.

Mr. Larry Scott
CalTel, Inc.
December 8, 2008
Page 2 of 2

CTI started filing Form 499s in 2002 and that although it did not timely file the 2003 and 2004 Form 499s, it did file the forms within a few days of the due date and it timely filed the 2005, 2006 and 2007 Form 499-As, clearly illustrating it is aware of the form filing deadline as being the first business day in April of each year. Because CTI's Form 499-A was not received before the April 1, 2008 due date, a late filing fee in the amount of \$400.00 was properly assessed and reflected on CTI's July 2008 invoice.³ USAC wishes to advise CTI that late fees will continue to be assessed on any unpaid balance.⁴

Further, CTI's appeal states, in part, that USAC delayed for four months before issuing the late filing fee as reflected on its July 2008 invoice. USAC processes Form 499s and posts related billings and late fees during the quarter following the due date of the form.

USAC's review indicates that because CTI's 2008 Form 499-A was not received before the April 1, 2008 due date, assessment of a late filing fee is appropriate and CTI's appeal is hereby denied.

If you wish to further appeal this decision, you may file an appeal with the FCC. Detailed instructions for filing appeals are available at:

<http://www.universalservice.org/fund-administration/contributors/file-appeal>

Sincerely,

USAC

cc: Regina Dorsey, FCC Office of Managing Director
Hillary DeNigro, FCC Enforcement Bureau
Trent Harkrader, FCC Enforcement Bureau
Erica Myers, FCC Wireline Competition Bureau

³ USAC, in its role of data collection agent, provides FCC Form 499 information to four funds, the North American Numbering Plan Administrator (NANPA), Local Number Portability (LNP), the Telecommunications Relay Service (TRS), and the Universal Service Fund (USF). Each of the four funds operates independently and any issues concerning their assessment of a late filing fee will need to be directed to the appropriate fund or to the FCC.

⁴ See USAC pay and dispute policy at <http://www.universalservice.org/fund-administration/contributors/understanding-your-invoice/billing-dispute-procedures.aspx>



Statement Date: 07/22/2008
 Invoice Number: UBDI0000311389
 Filer 499 ID: 820292
 Balance Due USAC: \$ 400.00
 Amount Enclosed:

CalTel, Inc.
 Attention: Larry Scott
 P.O. Box 827,
 Conway, SC, 29528

Mail Payment To:

Universal Service Administrative Company
 1259 Paysphere Circle
 Chicago, IL 60674

Address Change? See reverse side for instructions.

☐ If paying for multiple Filer 499 IDs, please check here and complete form on back.

Send top portion of statement with payment in enclosed envelope. Keep bottom portion for your records.

STATEMENT OF ACCOUNT

Date	Description	Charges	Credits
	Previous Balance		\$0.00
07/15/2008	Late Filing Fee - 499A - 2008 499A	\$400.00	
	BALANCE DUE USAC BY 8/15/2008	\$400.00	

Transactions occurring after 07/15/2008 are not reflected on this statement.

The Balance Due on this Statement represents your mandatory contributions to universal service support and constitutes a Debt owed to the United States as defined by 31 U.S.C § 3701, the Debt Collection Act of 1982 (Public Law 97-365), and the Debt Collection Improvement Act of 1996 (Public Law 104-134), as amended (the DCIA) and any amendments thereto. This Statement constitutes a demand for payment of the Balance Due in accordance with and pursuant to Federal Communications Regulations (47 C.F.R. § 1.1911) and the DCIA. Please refer to the reverse side of this Statement for important information and a description of your legal rights, obligations, and opportunities under the DCIA.

Statement Date	Invoice Number	Filer 499 ID	Balance Due USAC
07/22/2008	UBDI0000311389	820292	\$ 400.00
FORM 499Q DATA		PAYMENT INFORMATION	
This month's support mechanism charges were calculated using an FCC contribution factor of 0.114000 and the following revenue data:		Payment must be received by 08/15/2008 to avoid late payment charges.	
<u>May 2008 499Q</u>		Please remit ACH payments in a CCD+ format to ABA #071000505, Account #5590045653.	
120b	\$5,441.22	Payments must include your Company Name, Filer 499 ID, and Invoice Number to ensure timely posting.	
120c	\$1,450.99		
If the figures do not correspond with your records, please contact the 499 Data Collection Agent.			